

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS – Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MARQUEZ PETERSON

IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY
FOR RATEMAKING PURPOSES, TO FIX A
JUST AND REASONABLE RATE OF
RETURN THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN.

DOCKET NO. E-01345A-19-0236

**STAFF'S OPPOSITION TO APS'S
PROPOSED DISCOVERY LIMITATIONS**

On July 23, 2020, the Arizona Corporation Commission ("ACC") Staff and the Residential Utility Consumer Office ("RUCO") filed a Joint Motion to Modify Procedural Order ("Joint Motion"). In the Joint Motion, Staff and RUCO jointly requested a 60-day extension of the procedural schedule due to an unusually heavy workload and the impacts of Covid-19 work at home requirements.

Arizona Public Service Company ("APS" or "Company") filed a response on July 24, 2020 stating that the Company would support the Joint Motion "if it is coupled with procedural protections and guidance that preclude a further expansion of the issues to be addressed in this case." More specifically, if the Joint Motion is granted, APS asks that the following conditions apply: 1) the decision would not impact the Commission ordered test year and parties would be precluded from challenging the test year; 2) no new or continuing discovery on post-test year events or other dockets would be permitted after the date of the new procedural order in the case without mutual agreement and for good cause, except for matters already planned to be updated and new matters raised in APS's Rebuttal and Rejoinder testimonies; and, 3) Intervenors would be prohibited from propounding excessive or duplicative discovery.

APS also asks for two minor adjustments to the schedule proposed in the Joint Motion: 1) APS be given an additional week to file its Rebuttal testimony; and, 2) the date of commencement of the hearing be moved from November 30, 2020 to December 7, 2020 and no hearings be scheduled between December 23, 2020 and January 5, 2021.

1 While APS has the right to request what it believes is appropriate in a case, Staff strongly
2 opposes APS's proposed conditions on discovery. Staff is perplexed, disappointed and disturbed at
3 the tone of APS's Response as it pertains to discovery. Staff understands that APS may be having to
4 respond to a record number of discovery requests in this case. However, this is the largest rate case
5 before the Commission. The issues relating to revenue requirement, plant, fair value, rate design,
6 customer service and education are very complex and when put in the context of these
7 unprecedented times, the complexity and need for a fully developed record is heightened. The
8 circumstances facing many customers at this time have resulted in a high degree of public scrutiny
9 and focus on the proposals before the Commission and any resolution the Commission ultimately
10 reaches in this case. Without a complete record, the Commission will be unable to properly balance
11 ratepayer and shareholder interests in a manner that is in the public interest. And, restricting
12 discovery in the manner suggested would ultimately undermine the credibility of the findings in this
13 case.

14 This case will also be fully litigated. Thus, parties need to have sufficient discovery time and
15 the ability to ask whatever questions they believe necessary to perform the due diligence to make
16 appropriate recommendations. If the proposed limits on discovery are adopted, Staff may also be
17 unable to make its recommendations with respect to the items affected and will then simply have to
18 recommend denial.

19 Moreover, imposing limits on discovery as requested would be unprecedented. Under APS's
20 proposal, parties would have to get APS's permission before they could propound or obtain needed
21 discovery. This would be completely unworkable. This case should be treated no differently than
22 any other case as far as discovery is concerned.

23 If certain intervenors are abusing the discovery process, APS should file a motion to contest
24 any duplicative or excessive discovery it believes is being propounded by any party. Restricting the
25 ability of all parties to propound discovery because of what APS perceives may be abuses by a few is
26 not appropriate.

1 Staff has no objection to the minor adjustment to Staff's and RUCO's proposed schedule
2 requested by APS for an additional week to file its Rebuttal testimony. Staff also supports an
3 adjustment to the proposed hearing dates so they do not conflict with the holidays. Staff would ask
4 that the remainder of the schedule be adjusted accordingly, however. Finally, Staff requests that
5 discovery times be extended to coincide with any new schedule that is ordered.

6 WHEREFORE, Staff respectfully requests that APS's proposed discovery limitations be
7 denied.

8 RESPECTFULLY SUBMITTED this 29th day of July, 2020.

9
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On this 29th day of July, 2020, the foregoing document was filed with Docket Control as a Utilities Division Staff's Opposition to APS's Proposed Discovery Limitations, and copies of the foregoing were mailed on behalf of the Utilities Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

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